



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,982	08/27/2003	Jason DeBettencourt	SIS-00201	4353
26161 7590 01/09/2008 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER WON, MICHAEL YOUNG	
			ART UNIT	PAPER NUMBER
			2155	
			MAIL DATE	DELIVERY MODE
			01/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/648,982

Applicant(s)

DEBETTENCOURT ET AL.

Examiner

Michael Y. Won

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Preliminary Amendment filed September 30, 2004.
2. Claims 1, 2, and 4 have been amended and new claims 33 and 34 have been added.
3. Claims 1-34 have been examined and are pending with this action.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 17-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of claim 17 raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

The applicant(s) claim "A computer program product" but does not define within the body of the claim the hardware in which the invention runs. Thus, absent recitation

of the server or some other hardware, claim 17 is not limited to a tangible embodiment, instead being sufficiently broad to encompass software, per se.

The examiner encourages applicant to define within the claims the embodied features and limitations on a "storage" computer readable medium such as hard drives, disks, and other hardware elements. An example of a proper format would be "a machine readable code" or "program product"... "encoded on a computer readable storage medium".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pulsipher et al. (US 2003/0120709) in view of Cirasole et al. (US 5,987,606).

INDEPENDENT:

As per **claim 1**, Pulsipher teaches a method for obtaining data about a transaction in a computer system comprising:

receiving at least one message at each of a plurality of nodes in connection with performing a service of said transaction (see page 3, [0030]: "user can create and submit one or more input files 102, for example JR files, that define a work request that specifies one or more jobs"); and

processing data producing aggregated data about said transaction (see Fig.3 and page 14, [0190]: “the management layer 104 restructures the work definition, that is, the aggregation of jobs and dependencies between jobs, into a proposed work request”).

Pulsipher does not explicitly teach filtering said at least one message at each of said plurality of nodes in accordance with a current set of one or more rules producing local filtered data at each of said plurality of nodes.

Cirasole teaches filtering said at least one message at each of said plurality of nodes in accordance with a current set of one or more rules producing local filtered data at each of said plurality of nodes (see col.2, lines 19-20: “End-user requests for Internet content are filtered by the local server 522”).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Pulsipher in view of Cirasole by implementing filtering said at least one message at each of said plurality of nodes in accordance with a current set of one or more rules producing local filtered data at each of said plurality of nodes. One would be motivated to do so because Pulsipher teaches that “all jobs defined under a work request are inherently run in parallel” (see Pulsipher: page 4, [0069]). Therefore, such filtering would eliminate redundant job.

As per **claim 17**, Pulsipher teaches a computer program product method for obtaining data about a transaction in a computer system comprising:

executable code that receives at least one message at each of a plurality of nodes in connection with performing a service of said transaction (see page 3, [0030]:

“user can create and submit one or more input files 102, for example JR files, that define a work request that specifies one or more jobs that each includes a set of one or more executable task commands”); and

executable code that processes, at each of said plurality of nodes, data producing aggregated data about said transaction (see Fig.3 and page 14, [0190]: “the management layer 104 restructures the work definition, that is, the aggregation of jobs and dependencies between jobs, into a proposed work request”).

Pulsipher does not explicitly teach executable code that filters said at least one message at each of said plurality of nodes in accordance with a current set of one or more rules producing local filtered data at each of said plurality of nodes.

Cirasole teaches filtering said at least one message at each of said plurality of nodes in accordance with a current set of one or more rules producing local filtered data at each of said plurality of nodes (see col.2, lines 19-20: “End-user requests for Internet content are filtered by the local server 522”).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Pulsipher in view of Cirasole by implementing filtering said at least one message at each of said plurality of nodes in accordance with a current set of one or more rules producing local filtered data at each of said plurality of nodes. One would be motivated to do so because Pulsipher teaches that “all jobs defined under a work request are inherently run in parallel” (see Pulsipher: page 4, [0069]). Therefore, such filtering would eliminate redundant job.

DEPENDENT:

As per **claim 2**, which depends on claim 1, Pulsipher further teaches wherein the plurality of nodes includes one of: a single instance of a web service, an application server, a host computer, a geographical computer site (see Fig.1: SERVER FARM 108).

As per **claim 3**, which depends on claim 1, Pulsipher further teaches wherein at least two nodes of said plurality of nodes are associated with performing processing for a single application (see page 1, [0003]).

As per **claim 4**, which depends on claim 1, Pulsipher does not explicitly teach wherein said filtering at each of said plurality of nodes is performed while said each node is servicing a request.

Cirasole teaches wherein said filtering at each of said plurality of nodes is performed while said each node is servicing a request (see col.2, lines 19-20: "End-user requests for Internet content are filtered by the local server 522).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Pulsipher in view of Cirasole by filtering at each of said plurality of nodes is performed while said each node is servicing a request. One would be motivated to do so because Pulsipher teaches that "all jobs defined under a work request are inherently run in parallel" (see Pulsipher: page 4, [0069]). Therefore, such filtering would eliminate redundant job.

As per **claim 5**, which depends on claim 4, Pulsipher teaches further comprising: collecting said aggregated data from each of said plurality of nodes about said transaction (see Fig.3 and page 14, [0190]).

As per **claim 6**, which depends on claim 4, Pulsipher teaches further comprising: collecting said aggregated data from a portion of said plurality of nodes about said transaction (see page 2, [0024]; page 4, [0068]; and page 12, [0169]).

As per **claim 7**, which depends on claim 1, Pulsipher teaches further comprising: aggregating XML message data received at each of said plurality of nodes, said plurality of nodes being a distributed network of service node peers

Although Pulsipher teaches further comprising: aggregating message data received at each of said plurality of nodes (see claim 1 rejection above), said plurality of nodes being a distributed network of service node peers (see Fig.1), Pulsipher does not explicitly teach that the message data is XML.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. Messages will be aggregated regardless of the data. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ XML message data because such data does not functionally relate to the steps in the method claimed and because the subjective

interpretation of the data does not patentably distinguish the claimed invention.

Furthermore, Pulsipher teaches that the network comprises the Internet wherein XML is an language well-known to one of ordinary skill in the art that is employed within the Internet.

As per **claim 8**, which depends on claim 6, Pulsipher further teaches wherein each of said plurality of nodes is an application performing an operation in connection with servicing a transaction (see page 1, [0003]).

As per **claim 9**, which depends on claim 8, Pulsipher further teaches wherein said current set of rules is evaluated in accordance with each received message (see page 6, [0088]).

As per **claim 10**, which depends on claim 9, Pulsipher teaches further comprising: revising said current set of rules at one of said plurality of nodes while said one node is servicing a request (see page 1, [0004]).

As per **claim 11**, which depends on claim 9, Pulsipher further teaches wherein each rule in said current set of rules includes a condition portion and an action portion, and the method further comprising: evaluating a condition portion of a first rule in accordance with a first received message wherein said condition portion evaluates to false and said action portion is not performed; and evaluating said condition portion of said first rule in accordance with a second received message wherein said condition portion evaluates to true and said action portion is performed (see Fig.8 and page 13, [0181]-[0188])

As per **claim 12**, which depends on claim 11, Pulsipher further teaches wherein said action portion includes performing at least one of: outputting data to a destination and invoking an application (inherency).

As per **claim 13**, which depends on claim 1, Pulsipher further teaches wherein a transaction is determined in accordance with at least one of: a transaction identifier, a customer identifier, and a timestamp included in each of said at least one message (see page 13, [0184]).

As per **claim 14**, which depends on claim 13, Pulsipher further teaches wherein said processing includes analyzing said local filtered data at at least a portion of said plurality of nodes in accordance with a time-coherency and key-value pattern matching (see Fig.3; page 2, [0025]; and page 12, [0169]).

As per **claim 15**, which depends on claim 14, Pulsipher teaches further comprising: determining a first time for performing a first operation at a first of said plurality of nodes; determining a second time for performing a second operation at a second of said plurality of nodes; analyzing first local filtered data at said first node using an identifier associated with a transaction producing a first transaction data set; analyzing second local filtered data at said second node using said identifier producing a second transaction data set; and determining that said first and second transaction data sets are messages received by each of said first and second nodes for performing different operations for a same transaction at different points in time (see page 9-page 10, [0125]-[0147]).

As per **claim 16**, which depends on claim 15, Pulsipher teaches further comprising: determining a processing path of operations performed by one or more of said plurality of nodes in connection with servicing said transaction in accordance with said identifier associated with said transaction (see page 12, [0169]).

As per **claim 18**, which depends on claim 17, further teaches wherein each of at least a portion of said plurality of nodes is one of: a single instance of a web service, an application server, a host computer, a geographical computer site (see claim 2 rejection above).

As per **claim 19**, which depends on claim 17, further teaches wherein at least two nodes of said plurality of nodes are associated with performing processing for a single application (see claim 3 rejection above).

As per **claim 20**, which depends on claim 17, further teaches wherein said executable code that filters at each of said plurality of nodes performs filtering in real-time while said each node is servicing a request (see claim 4 rejection above).

As per **claim 21**, which depends on claim 20, teaches further comprising: executable code that collects said aggregated data from each of said plurality of nodes about said transaction (see claim 5 rejection above).

As per **claim 22**, which depends on claim 20, teaches further comprising: executable code that collects said aggregated data from a portion of said plurality of nodes about said transaction (see claim 6 rejection above).

As per **claim 23**, which depends on claim 17, teaches further comprising: executable code that aggregates XML message data received at each of said plurality

of nodes, said plurality of nodes being a distributed network of service node peers (see claim 7 rejection above).

As per **claim 24**, which depends on claim 22, further teaches wherein each of said plurality of nodes is an application performing an operation in connection with servicing a transaction (see claim 8 rejection above).

As per **claim 25**, which depends on claim 24, further teaches wherein said current set of rules is evaluated in accordance with each received message (see claim 9 rejection above).

As per **claim 26**, which depends on claim 25, teaches further comprising: executable code that revises said current set of rules at one of said plurality of nodes while said one node is servicing a request (see claim 10 rejection above).

As per **claim 27**, which depends on claim 25, further teaches wherein each rule in said current set of rules includes a condition portion and an action portion, and the computer program product further comprising: executable code that evaluates a condition portion of a first rule in accordance with a first received message wherein said condition portion evaluates to false and said action portion is not performed; and executable code that evaluates said condition portion of said first rule in accordance with a second received message wherein said condition portion evaluates to true and said action portion is performed (see claim 11 rejection above).

As per **claim 28**, which depends on claim 27, further teaches wherein said action portion includes performing at least one of: outputting data to a destination and invoking an application (see claim 12 rejection above).

As per **claim 29**, which depends on claim 17, further teaches wherein a transaction is determined in accordance with at least one of: a transaction identifier, a customer identifier, and a timestamp included in each of said at least one message (see claim 13 rejection above).

As per **claim 30**, which depends on claim 29, further teaches wherein said executable code that processes includes executable code that analyzes said local filtered data at at least a portion of said plurality of nodes in accordance with a time-coherency and key-value pattern matching (see claim 14 rejection above).

As per **claim 31**, which depends on claim 30, teaches further comprising: executable code that determines a first time for performing a first operation at a first of said plurality of nodes; executable code that determines a second time for performing a second operation at a second of said plurality of nodes; executable code that analyzes first local filtered data at said first node using an identifier associated with a transaction producing a first transaction data set; executable code that analyzes second local filtered data at said second node using said identifier producing a second transaction data set; and executable code that determines that said first and second transaction data sets are messages received by each of said first and second nodes for performing different operations for a same transaction at different points in time (see claim 15 rejection above).

As per **claim 32**, which depends on claim 31, teaches further comprising: executable code that determines a processing path of operations performed by one or more of said plurality of nodes in connection with servicing said transaction in

accordance with said identifier associated with said transaction (see claim 16 rejection above).

As per **claim 33**, which depends on claim 1, Pulsipher further teaches wherein at least some of the processing of the local filtered data is performed at each of the plurality nodes (see page 1, [0008]).

As per **claim 34**, which depends on claim 4, Pulsipher does not explicitly teach wherein the filtering is performed in real time.

Cirasole teaches wherein the filtering is performed in real time (see col.2, lines 19-20: "End-user requests for Internet content are filtered by the local server 522).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Pulsipher in view of Cirasole so that the filtering is performed in real time. One would be motivated to do so because Pulsipher teaches of runtime execution environment (see page 1, [0008]).

Conclusion

5. For the reasons above claims 1-34 have been rejected and remain pending.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.

Application/Control Number:
10/648,982
Art Unit: 2155

Page 14

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Won/

Primary Examiner

December 27, 2007